

## TEMPORARY REGULATIONS

### §1.408-2T. Individual retirement accounts (temporary)

(a) through (e)(7) [Reserved]. For further guidance, see §1.408-2(a) through (e)(7).

(e)(8) *Special rules for governmental units*

(i) A governmental unit that seeks to qualify as a nonbank trustee of a deemed IRA that is part of its qualified employer plan must demonstrate to the satisfaction of the Commissioner that it is able to administer the trust in a manner that is consistent with the requirements of section 408. The demonstration must be made by written application to the Commissioner. Notwithstanding the requirement of §1.408-2(e)(1) that a person must demonstrate by written application that the requirements of paragraphs (e)(2) to (e)(6) of that section will be met in order to qualify as a nonbank trustee, a governmental unit that maintains a plan qualified under section 401(a), 403(a), 403(b) or 457 need not demonstrate that all of these requirements will be met with respect to any individual retirement accounts maintained by that governmental unit pursuant to section 408(q). For example, a governmental unit need not demonstrate that it satisfies the net worth requirements of §1.408-2(e)(3)(ii) if it demonstrates instead that it possesses taxing authority under applicable law. The Commissioner, in his discretion, may exempt a governmental unit from certain other requirements upon a showing that the governmental unit is able to administer the deemed IRAs in the best interest of the participants. Moreover, in determining whether a governmental unit satisfies the other requirements of §1.408-2 (e)(2) to (e)(6), the Commissioner may apply the requirements in a manner that is consistent with the applicant's status as a governmental unit.

(ii) *Governmental unit.* —For purposes of this special rule, the term *governmental unit* means a State, political subdivision of a State, and any agency or instrumentality of a State or political subdivision of a State.

(iii) *Additional rules.* —The Commissioner may in revenue rulings, notices, or other guidance of general applicability provide additional rules for governmental units seeking approval as nonbank trustees.

(iv) *Effective date.* —This special rule is applicable for written applications made on or after August 1, 2003, or such earlier application as the Commissioner deems appropriate.